



STATE OF NEW YORK

UNEMPLOYMENT INSURANCE APPEAL BOARD

PO Box 15126

Albany NY 12212-5126

DECISION OF THE BOARD

Mailed and Filed: JUNE 06, 2022

IN THE MATTER OF:

Appeal Board No. 620690

PRESENT: GERALDINE A. REILLY, MEMBER

In Appeal Board Nos. 620688 the Commissioner of Labor appeals from the decision of the Administrative Law Judge filed December 28, 2021, which overruled the initial determination reducing the claimant's right to receive future benefits by 80 effective days on the basis that the claimant made willful misrepresentations to obtain benefits.

In Appeal 620689 and 620690 the Commissioner of Labor appeals from the decisions of the Administrative Law Judge filed December 28, 2021, insofar as they overruled the initial determinations charging the claimant with an overpayment of \$6000 in Federal Pandemic Unemployment Compensation (FPUC) repayable pursuant to § 2104 (f) (2) of the Coronavirus Aid, Relief, and

Economic Security (CARES) Act of 2020; charging the claimant with an overpayment of \$2366 on in benefits recoverable pursuant to Labor Law § 597

(4); and modified, and sustained the initial determination reducing the claimant's right to receive future benefits to 4 effective days, and reduced the civil penalty to zero, on the basis that the claimant made willful misrepresentations to obtain benefits.

The Administrative Law Judge held a telephone conference hearing at which testimony was taken. There was an appearance by the claimant.

Our review of the record reveals that the cases in Appeal Board Nos. 620688, 620689 and 621690, should be remanded to hold another combined hearing. The Commissioner of Labor shall be given an opportunity to produce certification

records for claimant for the period March 15, 2020, to May 31, 2020, which corresponds to the overpayments in question. The claimant shall be questioned about benefits received. The claimant shall produce bank records associated with his debit card for the period June 3, 2020, to January 30, 2021. Should the claimant require a subpoena to obtain those records, he is to contact the hearing section at (718) 613-3500, as soon as possible after receipt of this decision. The claimant shall be questioned regarding his certification attempts made while in Pakistan.

Now, based on all of the foregoing, it is

ORDERED, that the decisions of the Administrative Law Judge insofar as appealed from, be, and the same hereby are, rescinded; and it is further

ORDERED, that the combined case shall be, and the same hereby is, remanded to the Hearing Section to hold a combined hearing, upon due notice to all parties and their representatives; and it is further

ORDERED, that the combined hearing shall be conducted so that there has been an opportunity for the above action to be taken, and so that at the end of the hearing, all parties will have had a full and fair opportunity to be heard; and it is further

ORDERED, that an Administrative Law Judge shall render new decisions, on the issues which shall be based on the entire record in this case, including the testimony and other evidence from the original and the remand hearings, and which shall contain appropriate findings of fact and conclusions of law.

GERALDINE A. REILLY, MEMBER